

## 48A C.J.S. Judges § 362

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### X. Special or Substitute Judges and Like Judicial Officers


#### B. Selection and Appointment of Special or Substitute Judges

#### 2. Selection and Appointment Procedures of Special or Substitute Judges

## § 362. Improper selection of special or substitute judge

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  16(.5), 16(1)

### Where the selection of a special judge is not in accordance with law, there is no judge.

Where the selection of a special judge is not in accordance with law, there is no judge,<sup>1</sup> and the entire proceeding before the special judge is a nullity.<sup>2</sup>

If the statutory procedure for the selection of a special judge has not been followed, it has been held to be the proper practice to remand the case to the regular judge or to permit the court clerk to aid in the completion of the selection procedure.<sup>3</sup> Where it is provided that a special or like judge is to be selected by a procedure not including the agreement of the parties to his or her selection, the agreement of the parties to the selection of such judge is unnecessary.<sup>4</sup>

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### Footnotes

<sup>1</sup> Ark.—[Reed v. Bradford](#), 141 Ark. 201, 217 S.W. 11 (1919).

Ga.—[Bedingfield v. First Nat. Bank](#), 4 Ga. App. 197, 61 S.E. 30 (1908).

As to special or substitute judge as judge de facto, see § 368.

**Appointment of judge pro tempore a nullity**

Wash.—*Barrett-Smith v. Barrett-Smith*, 110 Wash. App. 87, 38 P.3d 1030 (Div. 2 2002).

2 Wash.—*National Bank of Washington, Coffman-Dobson Branch v. McCrillis*, 15 Wash. 2d 345, 130 P.2d 901, 144 A.L.R. 1197 (1942).

**No appealable order**

Ind.—*A.P. v. Porter County Office of Family and Children*, 734 N.E.2d 1107 (Ind. Ct. App. 2000).

3 Ind.—*Trigg v. Criminal Court of Marion County, Room 2*, 234 Ind. 609, 130 N.E.2d 461 (1955).

4 Ind.—*Lies v. Ortho Pharmaceutical Corp.*, 259 Ind. 192, 286 N.E.2d 170 (1972).

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